

L I C H T E N & L I S S - R I O R D A N , P . C .

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March 29, 2019

VIA ECF

Hon. Deborah A. Batts
United States District Judge
Daniel Patrick Moynihan
United States Courthouse
500 Pearl St.
New York, NY 1007-1312

RE: Rusis et al. v. International Business Machines Corp.,
 No. 1:18-cv-08434 (S.D.N.Y.)

Dear Judge Batts:

I write on behalf of Plaintiffs in the above-referenced matter. Plaintiffs submitted a motion on January 17, 2019 (Dkt. 21), requesting that the Court authorize the issuance of notice to putative opt-in plaintiffs pursuant to Section 261 of the Age Discrimination in Employment Act ("ADEA"), 29 U.S.C. § 621. On January 23, 2019, the Court issued an order deferring consideration of Plaintiffs' motion until after the parties engaged in the court-ordered mediation.

Pursuant to this Court's order, the parties attended mediation on March 28, 2019, before Richard Mancino but did not reach a resolution of this matter. Therefore, Plaintiffs now ask that the Court proceed with scheduling the Rule 16 conference in this case and that Plaintiffs be permitted to file their motion requesting notice to be issued to putative class members.

Such notice is typically distributed at the outset of a case brought under the ADEA (like the FLSA), prior to discovery. Following an opt-in process, the parties and Court would then understand the scope of the case, discovery would proceed, and following discovery, the defendant would have the opportunity to move to decertify a conditionally certified class if warranted.

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Thus, Plaintiffs respectfully request that they be permitted to file their motion, and the Court can then address whether notice will be authorized and the scope and method of such notice.

Thank you for your consideration.

Sincerely,

/s/ Shannon Liss-Riordan
Shannon Liss-Riordan

cc: Matthew Lampe, Esq.